

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Ruth Post Office
Ruth, Mississippi

Docket No. A2012-12

ORDER AFFIRMING DETERMINATION

(Issued January 31, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012”.¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On October 13, 2011, Bonnie Ard (Petitioner) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Ruth, Mississippi post office (Ruth post office).² The Final Determination to close the Ruth post office is affirmed.

II. PROCEDURAL HISTORY

On October 19, 2011, the Commission established Docket No. A2012-12 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.³

On October 28, 2011, the Postal Service filed the Administrative Record with the Commission and the Postal Service filed a Corrected Administrative Record on November 29, 2011.⁴ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁵

² Petition for Review received from Bonnie Ard regarding the Ruth, Mississippi post office 39662, October 13, 2011 (Petition).

³ Order No. 911, Notice and Order Accepting Appeal and Establishing Procedural Schedule, October 19, 2011.

⁴ The Administrative Record is attached to the United States Postal Service Notice of Filing, October 28, 2011 (Administrative Record). The Corrected Administrative Record is attached to the United States Postal Service Notice of Filing, November 29, 2011 (Corrected Administrative Record). The Corrected Administrative Record includes, as Item No. 47, the Final Determination to Close the Ruth, Mississippi Post Office and Continue to Provide Service by Rural Route Service (Final Determination).

⁵ United States Postal Service Comments Regarding Appeal, December 8, 2011 (Postal Service Comments). The Postal Service acknowledges that its comments are filed one day late. See Postal Service Comments at 1 n.1. The Commission accepts the late filing of the Postal Service Comments.

Petitioner filed a Participant Statement supporting her Petition.⁶ On December 22, 2011, the Public Representative filed reply comments.⁷

III. BACKGROUND

The Ruth post office provides retail postal services and service to 39 post office box customers. Final Determination at 2. Five-hundred and seventy-three delivery customers are served through this office. *Id.* The Ruth post office, an EAS-13 level facility, has retail access hours of 7:00 a.m. to 12:00 p.m. and 1:00 p.m. to 3:45 p.m., Monday through Friday, and it is not open for retail hours on Saturday. *Id.* at 2. Lobby access hours are 7:00 a.m. to 3:45 p.m. Monday through Friday and 7:00 a.m. to 9:15 a.m., on Saturday. *Id.*

The postmaster position became vacant on May 1, 2011 when the Ruth postmaster retired. *Id.* A non-career postmaster relief officer-in-charge (OIC) was installed to operate the office. *Id.* at 2, 5. Retail transactions average 20 transactions daily (21 minutes of retail workload). *Id.* at 2. Office receipts for the last three years were \$26,061 in FY 2008; \$25,607 in FY 2009; and \$23,371 in FY 2010. *Id.* There is one permit or postage meter customer. *Id.* By closing this office, the Postal Service anticipates savings of \$50,609 annually. *Id.* at 5.

After the closure, retail services will be provided by the Jayess post office located approximately 8 miles away.⁸ Delivery service will be provided by rural carrier through the Jayess post office. *Id.* The Jayess post office is an EAS-16 level office, with retail hours of 8:00 a.m. to 11:30 a.m. and 12:30 p.m. to 4:00 p.m., Monday through Friday, and 8:00 a.m. to 10:00 a.m. on Saturday. *Id.* Fifty-two (52) post office boxes are available. *Id.* The Postal Service will continue to use the Ruth name and Zip Code. *Id.* at 4, Concern No.5.

⁶ Participant Statement received from Bonnie Ard, November 14, 2011 (Participant Statement).

⁷ Reply Comments of the Public Representative, December 22, 2011 (PR Reply Comments).

⁸ *Id.* at 2. MapQuest estimates the driving distance between the Ruth and Jayess post offices to be approximately 6.85 miles (8 minutes driving time).

IV. PARTICIPANT PLEADINGS

Petitioner. Petitioner opposes the closure of the Ruth post office. Petitioner notes that a petition was signed by 504 residents of Ruth opposing the closure of the Ruth post office.⁹ Petition at 1. In addition, Petitioner states the closing will have a negative impact on community businesses. *Id.* Petitioner alleges the customer base at the Ruth post office and the mail volume at the Ruth post office have grown in the last five years. *Id.* A community petition signed by Ruth residents, attached to the Petition, states the closure would be a hardship on customers who have to use new addresses. *Id.* at 8. The community petition also states that most residents travel west out of Ruth, Mississippi while the suggested replacement post office is eight miles east in the opposite direction. *Id.* at 2. Petitioner also challenges the finding that the average window transaction account for twenty-one minutes of retail workload daily. Participant Statement at 2.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Ruth post office. Postal Service Comments at 7. The Postal Service believes the appeal raises four issues including (1) errors by the Postal Service; (2) detrimental impact on area businesses by the closure; (3) failure to take into account community opposition; and (4) failure to take into account the fact that the Ruth community is growing. *Id.* at 4. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Ruth post office should be affirmed. *Id.* at 6-7.

The Postal Service explains that its decision to close the Ruth post office was based on several factors, including:

⁹ Petitioner states the Petition signed by 504 customers was sent to Elizabeth Johnson, District Manager of Mississippi. Petitioner further states that all but one page of the Petition were lost and she notes the Final Determination states a Petition with 10 signatures was received. While Petitioner correctly notes the error in the Final Determination, the entire Petition is included in the Administrative Record at Item 27, .pdf pages 84-121.

- the postmaster vacancy;
- the low workload and decline in retail traffic;
- The availability of service through rural carriers and nearby post offices;
- lack of impact upon career employees;
- limited impact on the community or its identity; and
- expected financial savings.

Id. at 4. The Postal Service contends that it will continue to provide regular and effective postal services to the Ruth community when the Final Determination is implemented. *Id.* at 6. The Postal Service asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioner regarding the effect on postal services, effect on the Ruth community, economic savings, and effect on postal employees. *Id.* at 4, 6.

Public Representative. The Public Representative challenges the economic savings since there is no estimate for the cost of replacement service. PR Reply Comments at 5. The Public Representative notes, however, the cost may be *de minimis*, so the omission does not make a material difference in the estimate or warrant a remand. *Id.* at 5-6. The Public Representative notes questions raised by Petitioner about why the Ruth post office was slated for closure were answered in a more “macro” level by the Postal Service rather than responding to the particular “micro” level questions unique to the particular community. *Id.* at 6. The Public Representative encourages the Postal Service to increase transparency and improve the quality of its administrative records to avoid unnecessary frustration from longstanding loyal patrons. *Id.* at 7.

V. COMMISSION ANALYSIS

The Commission’s authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service’s determination to close or consolidate a post office on the basis of the record

that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. *Id.* § 404(d)(5).

The record indicates the Postal Service took the following steps in reaching its Final Determination. On June 2, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Ruth post office. Final Determination at 2. A total of 50 questionnaires were distributed to delivery customers. *Id.* Other questionnaires were made available at the retail counter. A total of 13 questionnaires were returned. On June 13, 2011, the Postal Service held a community meeting at Topsaw Creek Water Department to address customer concerns. Fifty customers attended. *Id.*

The Postal Service posted the proposal to close the Ruth post office with an invitation for comments at the Ruth and Jayess post offices from June 30, 2011 through

August 31, 2011. *Id.* at 2. The Final Determination was posted at the same post offices from October 4, 2011 through November 5, 2011. Administrative Record, Item No. 48 at 3-4.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. Ruth, Mississippi is an unincorporated community located in Lincoln County, Mississippi. Administrative Record, Item No. 16. The community is administered politically by Lincoln County. *Id.* Police protection is provided by Lincoln County. Fire protection is provided by Ruth Volunteer Fire Department. The community is comprised of farmers, retirees and some who commute to work in nearby communities. *Id.* Residents may travel to nearby communities for other supplies and services. See *generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Ruth community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Ruth post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 4.

Petitioner states the Postal Service representative at the community meeting could not clarify if customers would have a change of address after the closure. Petition at 1. The Postal Service states that the community identity will be preserved by

continuing the use of the Ruth name and Zip Code in addresses. Final Determination at 4, Concern 5. The Postal Service states further that the Administrative Record and Final Determination clearly state that customers whose post office box locations change will see address changes, while other customers will not have an address change. Postal Service Comments at 5.

Petitioner also alleges the closure will be detrimental for Ruth businesses, however, the Postal Service notes that these businesses have not submitted statements in opposition. Petition at 1; Postal Service Comments at 5. The Postal Service states it has considered the impact on all customers and has concluded the closure will not adversely affect the community. Final Determination at 4; Postal Service Comments at 5.

Petitioner also claims that the community has grown and the mail volume at the Ruth post office has not declined. Petition at 1. The Postal Service notes that this allegation is not supported by the record, which demonstrates a decline in retail transactions. Final Determination at 2; Postal Service Comments at 6.

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the Ruth postmaster retired on May 1, 2011, and that a non-career postmaster relief employee was installed as the OIC. The OIC has operated the Ruth post office since then. Final Determination at 2; *Id.* at 3. It asserts that after the Final Determination is implemented, the temporary OIC will either be reassigned or separated and that no other Postal Service employee will be adversely affected.

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Ruth post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to Ruth customers. Final Determination at 3. It asserts that customers of the closed Ruth post office may obtain

retail services at the Jayess post office located 8 miles away. *Id.* at 2. Delivery service will be provided by rural carrier through the Jayess post office. The Ruth post office box customers may obtain Post Office Box Service at the Jayess post office, which has 52 boxes available. *Id.*

For customers choosing not to travel to the Jayess post office, the Postal Service explains that retail services will be available from the carrier. *Id.* at 2-3; Concern 1-7. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.*

The Postal Service acknowledges community opposition to the closure of the Ruth post office as demonstrated by the Petition signed by 504 customers. Postal Service Comments at 5. The Postal Service states, however, that the Final Determination rests upon a factual foundation as presented by the Administrative Record and reflection and consideration of all customers' views. *Id.* at 6. The Final Determination concluded that taking all available information into consideration, the Postal Service will provide a maximum degree of effective and regular postal services to the community through the rural carrier and the nearby Jayess post office. Final Determination at 2, 6.

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$50,609. *Id.* at 5. It derives this figure by summing the following costs: postmaster salary and benefits (\$48,569) and annual lease costs (\$2,040) with no estimated cost for replacement service. *Id.* The Public Representative notes that this calculation fails to include any costs for the rural carrier to add new stops to the route. PR Reply Comments at 5. The Public Representative notes, however, that even if all 39 post office box customers opt for rural delivery, the replacement service may be negligible so its omission does not make a material difference nor warrant remand. *Id.* at 6.

The Commission has previously observed that the Postal Service should include in its estimate of savings those costs likely to be eliminated by the closing. The Ruth

post office postmaster retired on May 1, 2011. Final Determination at 2. The post office has since been staffed by a non-career postmaster relief OIC who, upon discontinuance of the post office, may be reassigned or may be separated from the Postal Service. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67 United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; and Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Ruth post office has been staffed by an OIC for approximately 8 months, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Ruth post office is affirmed.

It is ordered:

The Postal Service's determination to close the Ruth, Mississippi post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Ruth post office has been operated by an officer-in-charge (OIC), currently a non-career postmaster relief (PMR), since the former postmaster retired on May 1, 2011. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only a non-career OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position.

The Postal Service already claims billions of dollars in savings from reducing labor costs. I believe the savings from substituting OICs in postmaster positions throughout the nation have already been included in those billions. There are inherent and blatant contradictions in the record that must be corrected on remand.

In addition, as pointed out by the Public Representative, the economic analysis identified in the Final Determination does not account for the costs of replacement of rural or contract delivery service for the 39 customers currently provided post office boxes.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data was in the

Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the record and present a more considered evaluation of potential savings.

Additionally, as my colleagues note, the Public Representative noted that questions raised by the Petitioner were addressed summarily by the Postal Service at a “macro” level rather than responding to the particulars of the situation. Such generic responses are not helpful in addressing the specific questions and concerns of the community, nor do they promote transparency and confidence in the closure review process.

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011, have the respite of a 5-month moratorium.

The citizens of Ruth, Mississippi and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately comply with 39 U.S.C. § 404.

Under section 243 of the Postal Service's Handbook PO-101, August 2004, if a decision is made to continue proceeding with a discontinuance investigation, the Operations manager must "then develop a questionnaire and send it to customers for additional information and comments."

The Ruth post office provides service to 39 post office box holders and 573 delivery customers. Final Determination at 2. However, the Final Determination states that "50 questionnaires were distributed to delivery customers of the Ruth post office." *id.* It appears that 562 customers were not sent the questionnaire, which denied them the opportunity to present their views on the record.

In addition, the Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility since May 2011, not an EAS-13 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

I find that the Postal Service's decision to discontinue operations at the Ruth post office is unsupported by evidence on the record and thus, should be remanded.

Nanci E. Langley